

No. 2015-1549

**United States Court of Appeals
for the Federal Circuit**

LIFENET HEALTH,

Plaintiff-Appellee,

v.

LIFECCELL CORPORATION,

Defendant-Appellant.

Appeal from the United States District Court for the
Eastern District of Virginia in Case No. 2:13-CV-486
Judge Henry Coke Morgan, Jr.

**UNOPPOSED MOTION OF PLAINTIFF-APPELLEE LIFENET
HEALTH FOR EXTENSION OF TIME TO FILE ITS BRIEF**

MICHAEL J. SONGER
MICHAEL H. JACOBS
VINCENT J. GALLUZZO
SHANNON LENTZ
CROWELL & MORING LLP
1001 Pennsylvania Ave. NW
Washington, DC 20004-2595
Telephone: (202) 624-2500
Facsimile: (202) 628-5116
msonger@crowell.com

CONSTANTINE L. TRELA, JR.
SIDLEY AUSTIN LLP
One South Dearborn St.
Chicago, IL 60603
Telephone: (312) 853-7293
Facsimile: (312) 853-7036
ctrela@sidley.com

JOSHUA J. FOUGERE
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005

Counsel for LifeNet Health

Plaintiff-Appellee LifeNet Health (“LifeNet”), by its counsel, hereby moves this Court pursuant to Federal Rule of Appellate Procedure 26(b) for an extension of thirty (30) days, from August 20, 2015, to September 21, 2015. (Thirty days from August 20 falls on Saturday, September 19, 2015.) In support of this motion, LifeNet states as follows:

1. Counsel for LifeNet has conferred with counsel for Defendant-Appellant LifeCell Corp. (“LifeCell”), who has indicated that LifeCell does not oppose the requested extension of time.
2. This is an appeal from a final judgment in a patent infringement action. LifeCell filed its merits brief on July 6, 2015. LifeNet’s brief is currently due on August 20, 2015.
3. Constantine L. Trela, Jr. is counsel for LifeNet and is primarily responsible for its brief in this appeal. As detailed in Mr. Trela’s attached declaration, his and his colleague’s other commitments limit their ability to devote the necessary time to the preparation of LifeNet’s brief. LifeNet therefore respectfully requests an extension of thirty (30) days for the submission of its brief.
4. Defendant-Appellant LifeCell filed an unopposed motion for and received a 21-day extension of time to file its merits brief. This is LifeNet’s first request for an extension of time in this matter.

WHEREFORE, for the foregoing reasons, Plaintiff-Appellee LifeNet Health respectfully requests that this Court grant an extension of thirty (30) days, from August 20, 2015, to September 21, 2015, for LifeNet to file its appellee brief.

Dated: July 15, 2015

Respectfully submitted,

MICHAEL J. SONGER
MICHAEL H. JACOBS
VINCENT J. GALLUZZO
SHANNON LENTZ
CROWELL & MORING LLP
1001 Pennsylvania Ave. NW
Washington, DC 20004-2595
Telephone: (202) 624-2500
Facsimile: (202) 628-5116
msonger@crowell.com

/s/ Constantine L. Trela, Jr.
CONSTANTINE L. TRELA, JR.
SIDLEY AUSTIN LLP
One South Dearborn St.
Chicago, IL 60603
Telephone: (312) 853-7293
Facsimile: (312) 853-7036
ctrela@sidley.com

JOSHUA J. FOUGERE
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005

Counsel for LifeNet Health

CERTIFICATE OF INTEREST

Counsel for Plaintiff-Appellee certifies the following:

1. The full name of every party represented by me is:

LifeNet Health

2. The name of the real party in interest represented by me is:

LifeNet Health

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None

4. The names of all law firms and the partners or associates who appeared for LifeNet Health in proceedings before the United States District Court for the Eastern District of Virginia, or are expected to appear in this Court, are:

SIDLEY AUSTIN LLP

Constantine L. Trela, Jr.; Joshua J. Fougere

CROWELL & MORING LLP

Michael J. Songer; Michael H. Jacobs; Vincent J. Galluzzo; Shannon Lentz; Brian M. Koide; Christopher P. Calsyn; Jennifer H. Burdman; William Sauers

KAUFMAN & CANOLES, P.C.

Stephen E. Noona; Mark E. Warmbier

DATE: July 15, 2015

/s/ Constantine L. Trela, Jr.

CONSTANTINE L. TRELA, JR.

DECLARATION OF CONSTANTINE L. TRELA, JR.

CONSTANTINE L. TRELA, JR. declares:

1. I am counsel for LifeNet Health in Appeal No. 2015-1549 before this Court. I am primarily responsible for the preparation of LifeNet's brief.

2. I make this Declaration in support of LifeNet's unopposed motion for an extension of time to file its brief, from August 20, 2015 to September 21, 2015. The requested extension is needed for the following reasons.

3. I was retained by LifeNet in this matter in mid-June. Neither I nor my firm has had any prior involvement in or familiarity with this litigation, which involves, among other things, a two-week jury trial and a substantial district court record.

4. Beyond the need to familiarize myself with a large record, my professional commitments in other matters will limit the time that I am able to devote to the preparation of LifeNet's brief. Among other matters, I am counsel for Ford Motor Company in *Vehicle Interface Techs., LLC v. Ford Motor Co.*, No. 15-1423, pending in this Court, in which Ford's brief is due on August 5, 2015; and I am counsel for Lexmark International, Inc., in *Lexmark International, Inc. v. Impression Products, Inc.*, Nos. 14-1617, -1619, also pending in this Court, in which Lexmark's *en banc* brief is due on August 12, 2015. In addition, previously

scheduled travel commitments have required and will require that I am away from my office between July 9 and July 15 and between August 2 and August 11, 2015.

5. My colleague Joshua Fougere will also be limited in his ability to devote the necessary time to the preparation of the brief due to professional commitments, including a brief due in this Court on August 12, 2015, two briefs due in the Second Circuit in August 2015, and two briefs due in the D.C. Court of Appeals the same month. Previously scheduled travel commitments also require that he be away from his office between July 23 and July 29, 2015.

6. Appellant LifeCell received a 21-day extension of time to file its brief pursuant to an unopposed motion for extension of time.

7. Counsel for LifeCell has indicated that it does not oppose the requested extension of time for LifeNet to file its brief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 15, 2015.

/s/ Constantine L. Trela, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit through the Court's CM/ECF system.

Participants in this case who are registered CM/ECF users will be served by the appellate CM/ECF system.

/s/ Constantine L. Trela, Jr.

CONSTANTINE L. TRELA, JR.